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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,147	07/07/2003	Dane Charles Butzer	DCB-011	7707

26654 7590 11/02/2005

DANE C. BUTZER  
870 HIGH STREET, SUITE 104  
WORTHINGTON, OH 43085

EXAMINER
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PERVAN, MICHAEL

ART UNIT	PAPER NUMBER
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2677

DATE MAILED: 11/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/614,147	<b>Applicant(s)</b> BUTZER, DANE CHARLES	
	<b>Examiner</b> Michael Pervan	<b>Art Unit</b> 2677	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 16 and 17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7/7/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1/8/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Election/Restrictions***

1. Claims 16 and 17 withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 10/5/2005.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6, 9 and 11-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Brendzel et al (US 5,706,031).

In regards to claim 1, Brendzel discloses a cell-mouse comprising a cellular phone that doubles as a mouse for a laptop or other computer (col. 1, lines 30-38).

In regards to claim 2, Brendzel discloses the cell-mouse operating as a wireless mouse (col. 2, lines 54-62).

In regards to claim 3, Brendzel discloses the cell-mouse communicating with the laptop or other computer using an infrared link (col. 2, lines 54-62).

In regards to claim 4, Brendzel discloses the cell-mouse communicating with the laptop or other computer using the cell-mouse's cellular communication hardware 92 and 102, where cellular communication hardware is broadly interpreted as wireless communication hardware (see Figure 4).

In regards to claim 5, Brendzel discloses the cell-mouse being adapted to connect to the laptop or other computer through a wire or cable (col. 2, lines 54-56).

In regards to claim 6, Brendzel discloses the cell-mouse including rollers that detect motion of the cell-mouse (col. 3, lines 33-36).

In regards to claim 9, Brendzel discloses the cell-mouse including mouse buttons (col. 2, lines 17-22).

In regards to claim 11, Brendzel discloses a cell-mouse comprising cellular phone hardware and mouse hardware embodied in a single unit (see Figures 2 and 4).

In regards to claim 12, Brendzel discloses mouse hardware including one or more motion detection elements (col. 3, lines 33-36), one or more control elements (19-21), one or more mouse buttons (col. 2, lines 17-22) and communication hardware (col. 2, lines 54-62).

In regards to claim 13, Brendzel discloses some or all of the cellular phone hardware and mouse hardware being shared (see Figure 4).

4. Claims 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Miyashita (US 6,909,906).

In regards to claim 14, Miyashita discloses an add-on for a cellular phone, comprising a unit that enables the cellular phone to operate as a cell-mouse (see Figure 11; the cell phone 200 has all of the functionality of a cell phone without a battery. The mouse 205 has all the functionality of a mouse with a battery. When 205 is added to 200, it allows 200 to operate as a cell mouse).

In regards to claim 15, Miyashita discloses the unit including one or more motion detection elements 131, one or more control elements 131, one or more mouse buttons 107 and 108 (see Figures 4 and 11; since the structure and functionality of 205 is similar in all embodiments) and communication hardware (communication hardware is inherent in a mouse).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brendzel in view of Nestler et al (US 4,799,055).

In regards to claim 8, Brendzel does not disclose the cell-mouse including an optical sensor that detects motion of the cell-mouse.

Nestler discloses the cell-mouse including an optical sensor that detects motion of the cell-mouse (col. 5, lines 51-64). It would have been obvious at the time of invention to modify Brendzel with the teachings of Nestler because it is more accurate.

In regards to claim 8, Brendzel does not disclose the cell-mouse including accelerometers that detect motion of the cell-mouse.

Olson discloses the cell-mouse including accelerometers that detect motion of the cell-mouse (col. 4, lines 49-58). It would have been obvious at the time of invention to modify Brendzel with the teachings of Olson because it is more accurate.

7. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brendzel in view of Miyashita.

In regards to claim 10, Brendzel does not disclose the cell-mouse including a scroll wheel.

Miyashita discloses the cell-mouse including a scroll wheel (col. 5, lines 14-17). It would have been obvious at the time of invention to modify Brendzel with the teachings of Miyashita because it allows the user to more easily view long documents and web pages.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Pervan whose telephone number is (571) 272-0910. The examiner can normally be reached on Monday - Friday between 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Amr Awad can be reached on (571) 272-7764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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MVP  
Oct. 31, 2005

AMR A. AWAD  
PRIMARY EXAMINER  
*Amr A. Awad*